

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: David Foster	Team: Team # 1	CCRB Case #: 200712664	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 08/30/2007 11:41 PM	Location of Incident: § 87(2)(b) and § 87(2)(b) and § 87(2)(b)	Precinct: 114	18 Mo. SOL 2/28/2009	EO SOL 2/28/2009	
Date/Time CV Reported Fri, 08/31/2007 11:53 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 08/31/2007 11:53 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			
3. POM Wilson Alba	09921	936109	BX/Q IM
4. POM Ionut Gheorghiu	09382	936664	BX/Q IM

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Lau	24870	936915	BX/Q IM
2. SGT Joseph May	03567	925693	BX/Q IM
3. POM Thomas Dunne	20950	936530	BX/Q IM
4. SGT James Leto	03459	922645	PSA 9
5. POM Robert Rivera	06544	937385	BX/Q IM
6. POM Joseph Harmon	18134	936732	PSA 9
7. SGT Michael Loria	03912	913975	PSA 9
8. POM Edward French	30482	932668	PSA 9
9. POM Raymond Hill	23168	932791	PSA 9
10. POM Alfredo Guerra	03566	934973	PSA 9
11. POF Khadija Faison	02764	931661	PSA 9
12. POM Jay Turner	23047	926372	PSA 9
13. POM David Rein	22546	927402	114 PCT
14. POM Joseph Ianno	17804	935041	114 PCT
15. POM Leon Lewis	28932	936946	BX/Q IM
16. POM Christopher Torrisi	14566	937644	BX/Q IM
17. DI Dennis Clary	00000	873507	H BX/Q

Officer(s)	Allegation	Investigator Recommendation
A.POM Ionut Gheorghiu	Abuse: At § 87(2)(b) and § 87(2)(b) in Queens, Police Officer Ionut Gheorghiu stopped § 87(2)(b)	
B.POM Ionut Gheorghiu	Abuse: At § 87(2)(b) and § 87(2)(b) in Queens, Police Officer Ionut Gheorghiu frisked § 87(2)(b)	
C. Officers	Force: At § 87(2)(b) and § 87(2)(b) in Queens, officers used physical force against § 87(2)(b)	
D.POM Wilson Alba	Force: At § 87(2)(b) and § 87(2)(b) in Queens, Police Officer Wilson Alba used pepper spray against § 87(2)(b).	
E. Officers	Force: At § 87(2)(b) and § 87(2)(b) in Queens, officers used pepper spray against § 87(2)(b)	
F. An officer	Force: At § 87(2)(b) and § 87(2)(b) in Queens, an officer used physical force against § 87(2)(b)	
G. An officer	Force: At § 87(2)(b) and § 87(2)(b) in Queens, an officer used pepper spray against § 87(2)(b)	
H. Officers	Force: At § 87(2)(b) and § 87(2)(b) in Queens, officers used physical force against § 87(2)(b)	
I. An officer	Force: At § 87(2)(b), an officer held a pillow against § 87(2)(b)'s face.	
J. An officer	Force: At § 87(2)(b), an officer tightly handcuffed § 87(2)(b)	

Synopsis

On the night of August 30 and early morning of August 31, 2007, multiple residents of § 87(2)(b) and surrounding buildings of the Queensbridge Houses development in Queens reported hearing fireworks and shots fired. Police Officers Wilson Alba and Ionut Gheorghiu, both of the Housing Borough Bronx/Queens Impact Response Team, investigated the reports. In the courtyard in front of § 87(2)(b) PO Alba and PO Gheorghiu approached a group including § 87(2)(b), § 87(2)(b) (b), and other unidentified individuals. PO Gheorghiu grabbed § 87(2)(b) by the arm and frisked him (**allegations A and B**). PO Gheorghiu and PO Alba then realized that the fireworks belonged to § 87(2)(b) § 87(2)(b), who was also in the courtyard but was in a separate group including his girlfriend, § 87(2)(b) § 87(2)(b), and other unidentified individuals. PO Alba saw § 87(2)(b) throw fireworks to the ground and handcuffed him. § 87(2)(b) and others in the courtyard protested. Sergeant Michael Loria and POs Edward French, Alfredo Guerra, and Raymond Hill, all of Police Service Area 9, approached to assist in removing § 87(2)(b) from the courtyard. § 87(2)(b) refused to walk with the officers, and unidentified officers pulled on and allegedly bent his arms, dragging him out of the courtyard (**allegation C**). § 87(2)(b), § 87(2)(b), § 87(2)(b), and other unidentified civilians followed the officers out of the courtyard and onto § 87(2)(b) continuing to protest.

Along § 87(2)(b) the officers placed § 87(2)(b) inside a marked patrol car. Seconds later, § 87(2)(b) § 87(2)(b) repeatedly kicked the window of the car, causing it to shatter. PO Alba and other unidentified officers pepper-sprayed § 87(2)(b) through the window of the car (**allegations D and E**). § 87(2)(b) § 87(2)(b) began taking photographs of § 87(2)(b) and the officers. An unidentified officer repeatedly instructed § 87(2)(b) to “move back.” § 87(2)(b) stepped back, but the unidentified officer pushed him (**allegation F**). A second unidentified officer allegedly pepper-sprayed § 87(2)(b) and he fell to the ground (**allegation G**). Unidentified officers kicked and punched § 87(2)(b) in the head and back (**allegation H**). § 87(2)(b) was arrested § 87(2)(b).

§ 87(2)(b) was taken by ambulance to § 87(2)(b) for treatment of the effects of the pepper spray. While at the hospital, § 87(2)(b) complained of burning to his eyes and an unidentified officer allegedly held a pillow over his face (**allegation I**). The officer removed the pillow and § 87(2)(b) asked that his handcuffs be loosened. An unidentified officer tightened the handcuffs (**allegation J**). § 87(2)(b) was diagnosed with a broken right wrist and returned to the 114th Precinct stationhouse, where he was charged § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) Complainant

On August 31, 2007, § 87(2)(b) who is § 87(2)(b)'s aunt, filed a complaint regarding this incident via the CCRB's website (encl. 5a-e, 7a-d). § 87(2)(b) arrived at the scene of the incident after § 87(2)(b) had already been placed inside a patrol car. § 87(2)(g)

§ 87(2)(b) *Complainant/witness*

On August 31, 2007, § 87(2)(b) called 911 to report that over twelve officers were “beating on a child” on § 87(2)(b). § 87(2)(b) did not provide her name and hung up the phone. The 911 operator reported § 87(2)(b)'s complaint to the Internal Affairs Bureau, which generated Log No. 07-33299 (encl. 6a-d). On September 6, 2007, IAB referred § 87(2)(b)'s complaint to the CCRB (encl. 7a-d). On November 16, 2007, the investigator contacted § 87(2)(b) who confirmed that she had called 911 and provided a telephone statement (encl. 9).

§ 87(2)(b) stated that she did not remember the incident clearly due to the time elapsed between the incident and her telephone statement. She had difficulty providing additional details in response to questions. At the time of the incident, § 87(2)(b) who lives on the § 87(2)(b) § 87(2)(b), heard yelling outside her apartment. § 87(2)(b) went to her window, which faces § 87(2)(b), to see what was happening. When § 87(2)(b) looked through her window, she saw a number of people who all appeared to be less than 18 years old and multiple officers outside. § 87(2)(b) saw a black male, identified through investigation as § 87(2)(b) (described as 5'7" tall, stocky, possibly wearing his hair in braids), talking to a uniformed male officer who was not black. The officer and § 87(2)(b) were less than an arm's length apart and were on the sidewalk near the entrance to § 87(2)(b). § 87(2)(b) did not believe that the two were talking loudly because she could not hear them over the noise of the crowd. The officer pushed § 87(2)(b) in his chest and § 87(2)(b) pushed the officer back in the chest. At this point, approximately fifteen uniformed officers approached and began to strike § 87(2)(b) with their hands and fists.

The officer who first pushed § 87(2)(b) hit him with a stick multiple times, but § 87(2)(b) could not estimate how many. The officers took § 87(2)(b) to the ground and continued to strike him. They then got § 87(2)(b) onto his stomach. One officer had his knee in § 87(2)(b)'s back. The officers handcuffed § 87(2)(b) after which he appeared to place his weight such that it was difficult to move him. The officers placed him in a marked patrol car. § 87(2)(b) left her window at this point. A few moments later, she heard a loud sound which she later learned was the sound of the window of a patrol car breaking.

At the time of her telephone statement, § 87(2)(b) stated that she might be willing to provide a statement in person if the investigator traveled to her apartment. On November 27, 2007, the investigator contacted § 87(2)(b) to inform her of a planned trip to the Queensbridge Houses on November 29, 2007. § 87(2)(b) was unable to make an appointment at the time of the call, but asked that the investigator call her on November 29, 2007, to arrange an interview. On November 29, 2007, the investigator attempted to contact § 87(2)(b) and left her a voicemail asking that she call. § 87(2)(b) did not make any attempt to contact the investigator. § 87(2)(b), § 87(2)(g)

Results of Investigation

§ 87(2)(b) *Victim*

§ 87(2)(b) a § 87(2)(b)-old black male, is 5'6" tall and weighs 160 pounds. On November 16, 2007, § 87(2)(b) provided a telephone statement (encl. 10a). On October 2, 2007, § 87(2)(b) was interviewed at the CCRB (encl. 10b-h). At the time of his interview, § 87(2)(b) was § 87(2)(b) § 87(2)(g)

At the time of the incident, § 87(2)(b) was sitting on a bench in the Queensbridge housing development. His friend, known to him as “§ 87(2)(b)” but identified by the investigation as § 87(2)(b), was on another bench. Approximately five people were sitting on benches near § 87(2)(b), including § 87(2)(b)'s § 87(2)(b)-old godbrother, § 87(2)(b). Four people were sitting on benches opposite § 87(2)(b)'s bench, including § 87(2)(b)'s girlfriend, known to § 87(2)(b) as “§ 87(2)(b).” A uniformed officer, identified through investigation as PO Ionut Gheorghiu (described as a white male, 5'10" tall, average build, black hair, moustache, 32-37 years old) approached and said to § 87(2)(b) “Put your hands behind your back.” § 87(2)(b) asked why, and the

officer stated that he had been shooting firecrackers. § 87(2)(b) denied having shot firecrackers. PO Gheorghiu said, "I saw you throw something in the grass," then retrieved fireworks from the grass. § 87(2)(b) said, "No, that wasn't me. I threw a bottle in the grass." PO Gheorghiu said, "We know it was you." At some point during this conversation, a second uniformed officer, identified through investigation as PO Wilson Alba (described as a white male, 5'8" tall, slim build, black hair, last name "Alba" read from nameplate, 28-33 years old), arrived. PO Gheorghiu took out handcuffs and attempted to handcuff § 87(2)(b) but § 87(2)(b) said, "I'm not getting arrested for nothing I didn't do." As § 87(2)(b) struggled with PO Gheorghiu and PO Alba, he fell halfway to the ground. Two white male plainclothes officers (one was described as 35 years old, 5'7" tall, stocky, with glasses, black hair, and a moustache; the second was 6' tall, heavyset, and had black hair and a 5 o'clock shadow) arrived. The shorter plainclothes officer with the moustache grabbed § 87(2)(b)'s right arm and the taller plainclothes officer grabbed § 87(2)(b)'s left arm. The officers dragged § 87(2)(b) whose feet were on the ground, toward a marked patrol car.

§ 87(2)(b) turned away from § 87(2)(b) and then turned back toward him when he heard a loud noise. When he turned, he saw that the window of the patrol car in which § 87(2)(b) was sitting had been broken. White male uniformed officers with black hair were standing on either side of the car, and both officers pepper-sprayed § 87(2)(b). One of these officers opened the driver's-side door and § 87(2)(b) fell out of the car. § 87(2)(b) and § 87(2)(b) began to take photographs of what was happening from a nearby bus stop.

Additional patrol cars arrived and officers told everyone in the crowd of approximately 30 people to "back up." People in the crowd were saying, "Why y'all beating up the black kid?" § 87(2)(b) said, "Idiots! Leave him alone." An unidentified white male officer in uniform (described at 5'6" tall, heavyset, black hair, may have had a moustache) told § 87(2)(b) to "move back" one time. The officer was approximately two feet away from § 87(2)(b) at this point. § 87(2)(b) took five steps backward, away from the bus stop. The unidentified uniformed white male officer pushed § 87(2)(b) in the shoulders with both of his hands. At this point, § 87(2)(b)'s back was almost against a gate. This gate is next to a brick wall and a walkway leading toward the buildings of the Queensbridge development. Someone in the crowd said, "Don't push him. He's only § 87(2)(b) old." The officer responded, "I bet you I'll push him again," and pushed § 87(2)(b) again such that his back was now against the gate, which is five feet tall. At the same time, this officer grabbed § 87(2)(b)'s right arm. § 87(2)(b) pulled away because he was being propelled backward by the officer's push.

The officers repeatedly said to § 87(2)(b) "Move back." § 87(2)(b) "I can't. I'm on the gate." Officers touched § 87(2)(b)'s face and he put up his arms with his palms out, saying, "Don't touch me." The short plainclothes white male officer with the moustache approached § 87(2)(b) from the side and pepper-sprayed him. § 87(2)(b) closed his eyes and fell to the ground. § 87(2)(b) felt the officers kick him in the head twice. The officers kicked and punched § 87(2)(b) in the back approximately three times. Someone in the crowd, possibly one of the male plainclothes officers, said, "Stop hitting him. He's only § 87(2)(b) old." When the officers had stopped kicking and punching § 87(2)(b), a uniformed Asian male officer, identified through investigation as PO Michael Lau, was on his knees next to him and was in the process of handcuffing him. § 87(2)(b) could not tell if PO Lau had been involved in kicking or punching him.

§ 87(2)(b) was taken to the 114th Precinct stationhouse in a marked patrol car. PO Lau was in the passenger's seat, while a black male officer, identified through investigation as PO Leon Lewis, drove the car. § 87(2)(b) was charged § 87(2)(b). Approximately one day after the incident, § 87(2)(b) went to § 87(2)(b), where he received treatment for knots to his head.

The investigator made numerous attempts to contact § 87(2)(b) to show a photo array of potential subject officers. On May 7, 9, and 12, 2008, the investigator attempted to contact § 87(2)(b) at all four numbers available for him and his parents. Each time, all four numbers appeared to be disconnected or out of service. On May 14, 2008, the investigator contacted § 87(2)(b) who stated that § 87(2)(b)'s family did not have a telephone but was still living at the same address. § 87(2)(b) stated that she would ask § 87(2)(b) to call the investigator. On June 5, 2008, the investigator called § 87(2)(b) a second time and

she stated that she had relayed the earlier message, but would again ask § 87(2)(b) to call. Photo array letters were sent to § 87(2)(b)'s confirmed address on May 7, 12, and 16, 2008. None of the letters was returned, and as of the date of this report, § 87(2)(b) and his family had made no attempt to contact the investigator.

§ 87(2)(b) *Victim*

§ 87(2)(b) a § 87(2)(b)-old black male, is 5'9" tall and weighs 150 pounds. On December 11, 2007, § 87(2)(b) was interviewed via a telephone call to § 87(2)(b), where he was incarcerated at the time (encl. 13a-c). The investigator asked § 87(2)(b) to sign a verification statement before a notary and return it to the investigator, and sent him verification statements and medical release forms with written instructions on December 21, 2007, and March 5, 2008. As of the date of this report, § 87(2)(b) had not signed and returned any of the forms.

At the time of the incident, § 87(2)(b) was sitting on a bench in the courtyard of the Queensbridge Houses with his girlfriend, § 87(2)(b). There were approximately fifteen "kids" on a nearby bench in the courtyard. § 87(2)(b) did not know the names of any of these individuals. A § 87(2)(b)-old male who was eventually arrested, identified through investigation as § 87(2)(b) was lighting fireworks.

Two uniformed officers, identified through investigation as PO Wilson Alba and PO Ionut Gheorghiu, approached. PO Alba (described as a Hispanic male, light to medium complexion, 5'9" to 5'10" tall, average build, 30s) approached § 87(2)(b) and asked to whom the fireworks belonged. § 87(2)(b) stated that he did not know. PO Alba went over to the grass, picked up the fireworks, and instructed PO Gheorghiu (described as a white male, 5'9" to 5'10" tall, slim build, black hair, 27-28 years old) to arrest § 87(2)(b). PO Gheorghiu did not react, so PO Alba grabbed § 87(2)(b) by the arm and attempted to handcuff him. § 87(2)(b) turned his body and asked why he was being arrested, but did not resist. PO Alba said, "Don't move, I'm gonna mace you." § 87(2)(b) again turned his body to the side and attempted to pull away from PO Alba. Plainclothes officers § 87(2)(b), § 87(2)(a) 160.50, identified through investigation as Sgt. Michael Loria and POs Edward French, Alfredo Guerra, and Raymond Hill, approached. One of the officers (described as 5'7" tall, stocky build, late 20s, wearing a hat) grabbed § 87(2)(b)'s left arm and either PO Alba or PO Gheorghiu grabbed § 87(2)(b)'s right arm. The officer holding § 87(2)(b)'s right arm bent it as § 87(2)(b) resisted moving forward. The officers handcuffed both of § 87(2)(b)'s arms and pulled him toward § 87(2)(b) such that his feet were dragging on the ground. § 87(2)(b) stated that he was not resisting, but was refusing to move.

§ 87(2)(b) said to the officers, "Why are ya'll doing that? It's not like he's trying to resist arrest. He's just trying to tell ya'll that it wasn't his." At "the corner," the white male plainclothes officer grabbed § 87(2)(b) by the back of his shirt, near the neck area, and slammed him against the back of a patrol car such that his chest hit the car. Unidentified officers searched § 87(2)(b). Additional officers were arriving at this time. A crowd was gathering, and fireworks continued to go off down the block. The officers placed § 87(2)(b) in the backseat of a patrol car. § 87(2)(b) stated that he was "mad" and attempted to kick the door, but accidentally kicked the glass of the window, causing it to shatter. § 87(2)(b) alleged that PO Gheorghiu said to him, "You want to break the glass window? Here, take this now," and pepper-sprayed him. After PO Gheorghiu pepper-sprayed him, § 87(2)(b) put his face against the seat of the car. An unidentified officer opened one of the doors and pepper-sprayed him. § 87(2)(b) and unidentified others later informed § 87(2)(b) that a total of approximately five officers pepper-sprayed him.

§ 87(2)(b) yelled, "I can't breathe!" He was gasping for air at this time. An unidentified officer or officers grabbed § 87(2)(b) by the shoulders of his shirt, pulled him from the driver's side of the car, and slammed him onto the ground such that his chest hit the ground. § 87(2)(b) screamed, "My arm!" § 87(2)(b) felt an officer kick him in the back of his head and then place his shoe against the back of his neck or head for approximately 30 seconds. § 87(2)(b) could not see the officer who did this due to the effects of the pepper spray. The officers returned § 87(2)(b) to the same patrol car.

§ 87(2)(b) heard unidentified members of the crowd say, “He’s only § 87(2)(b) !” The officers responded by telling everyone to “back up.” The officers attempted to place § 87(2)(b) in the patrol car with § 87(2)(b) but § 87(2)(b) was lying across the seat, so they took § 87(2)(b) to a different car. The officers drove § 87(2)(b) to a different location and transferred him to an ambulance. At the back of the ambulance, § 87(2)(b)’s face was washed with water. There were two male EMTs in the ambulance. Even after his face was washed, § 87(2)(b) could not see anything because his eyes continued to burn. § 87(2)(b) complained to the EMTs of pain to his arm at this time, as well. § 87(2)(b) stated that one officer entered the ambulance with him to accompany him to the hospital. § 87(2)(b) could not see this officer and could not say which officer it was.

§ 87(2)(b) was taken to § 87(2)(b). When § 87(2)(b) woke up, he was in a corridor on the first floor of the hospital. § 87(2)(b) asked unidentified officers how long he had been at the hospital. An unidentified male officer informed him that he had been there for approximately six hours. § 87(2)(b) repeatedly complained that his eyes, head, neck, and back were burning from the pepper spray. The officers told § 87(2)(b) to be quiet, but he continued to complain about the burning sensation. An unidentified male officer held what felt like a pillow against § 87(2)(b)’s face such that it covered his entire face. The officer held the pillow in this position for approximately one minute and told § 87(2)(b) that he would not remove the pillow until § 87(2)(b) was quiet. § 87(2)(b) again complained of difficulty breathing. Once the officer removed the pillow from his face, § 87(2)(b) asked the officers to loosen the handcuff attached to his broken arm. One of the officers tightened the handcuffs on both arms instead and told him to “calm down.” One of the officers also said, “You wanna keep running your mouth? Keep acting stupid? You wanna feel the pain.” At this time, numerous medical personnel were present.

When § 87(2)(b) woke up, he was able to see again. At this time, his right arm was in a cast. § 87(2)(b)’s arm, which was broken near the wrist, was in a cast for one month following this incident. When asked if he noticed when his arm was broken, § 87(2)(b) responded, “I was—I mean, it was excruciating and I was—it was painful, because of the mace, I didn’t really notice cause, I guess it was cause my adrenaline was rushing. It was about five officers that maced me, and they just kept—they was, cause they started circling around me. Like, one of them maced me, then the other one came, maced me, and they kept macing me.” § 87(2)(b) stated that he “guesses” that his arm broke when PO Alba or PO Gheorghiu bent it as the officers were dragging him to the patrol car. In addition to the broken arm, § 87(2)(b) suffered a knot on the back of his head and was given Motrin to relieve the pain.

§ 87(2)(b) Victim

§ 87(2)(b) a § 87(2)(b)-old black male, is 5’7” tall and weighs 250 pounds. § 87(2)(b) is § 87(2)(b) § 87(2)(b)’s cousin and was § 87(2)(b) at the time of his interview. On November 13, 2007, § 87(2)(b) provided a telephone statement (encl. 11a). On November 29, 2007, § 87(2)(b) was interviewed at § 87(2)(b) § 87(2)(b) where he lived at the time (encl. 12a-d). § 87(2)(g)

§ 87(2)(b) stated that PO Alba and PO Gheorghiu walked past the groups in the courtyard and then returned. PO Gheorghiu said to the group including § 87(2)(b) and § 87(2)(b) “Everybody get up. Get up.” PO Gheorghiu grabbed § 87(2)(b) by the arm. § 87(2)(b) said, “What happened?” PO Gheorghiu instructed § 87(2)(b) to spread his arms. PO Gheorghiu then frisked § 87(2)(b) by patting his hands over the outside layer of § 87(2)(b)’s clothing. At this point, PO Alba turned around, said, “Oh, it’s not them,” and stated that he had seen someone else throw something in the grass. PO Alba approached § 87(2)(b) and asked, “What’s that you threw?” § 87(2)(b) stated that he had thrown a bottle into the grass. PO Gheorghiu looked in the grass, picked up an unidentified object, and asked, “Is this what you threw?” PO Alba grabbed § 87(2)(b) by the arm and § 87(2)(b) waved his free arm in the air, saying, “What ya’ll taking me for?”

PO Gheorghiu grabbed § 87(2)(b)’s second arm and the two officers placed him against a short fence to handcuff him. At this point, three plainclothes officers arrived on foot from the direction of § 87(2)(b) and § 87(2)(b) later saw these officers driving a black Ford sedan and had previously seen them patrolling in the neighborhood. One of the plainclothes officer (described as a light-skinned Hispanic

male, 6'5" tall, heavyset) said, referring to § 87(2)(b) "I know this kid. I'll take him." This officer and a second light-skinned Hispanic male plainclothes officer (described as 6'4" tall, bald, wearing a black T-shirt) each grabbed one of § 87(2)(b)'s arms and pulled him toward § 87(2)(b). The third plainclothes officer, identified through investigation as PO Alfredo Guerra, was described as an Asian male who was 5'7" to 5'8" tall, stocky, and wore glasses. § 87(2)(b) resisted by refusing to walk on his own. § 87(2)(b) also repeatedly said, "Just tell me what ya'll taking me for."

§ 87(2)(b) and the others in the courtyard followed the officers toward § 87(2)(b). Next to the bus stop at § 87(2)(b) and § 87(2)(b) the officers placed § 87(2)(b) inside a marked patrol car. § 87(2)(b) repeatedly kicked the window of the car from the inside. One of the plainclothes officers banged the area around the window with a nightstick in response. § 87(2)(b) could not see where the nightstick actually struck the car.

§ 87(2)(b) was taking pictures while standing on the sidewalk, between the bus stop and the fence next to the residential buildings. § 87(2)(b) was watching the incident from in front of the residential building closest to the incident location. PO Guerra told § 87(2)(b) to back up and he did so. The window of § 87(2)(b)'s patrol car broke and § 87(2)(b) screamed that there was glass on him. PO Guerra turned to § 87(2)(b) grabbed him, and took him to the ground face-down. PO Guerra then placed his knee against § 87(2)(b)'s back and attempted to handcuff him. § 87(2)(b) did not resist. The bald plainclothes officer and a male uniformed officer of unknown description became involved, and the 6'5"-tall plainclothes officer grabbed § 87(2)(b)'s head and pushed it down against the ground. § 87(2)(b) later had scrapes in the area around his eyes. The unidentified male officer in uniform pulled out a can of pepper spray and raised it as if to spray § 87(2)(b). § 87(2)(b) did not see if the officer succeeded in pepper-spraying § 87(2)(b). The officers handcuffed § 87(2)(b). In his in-person interview, § 87(2)(b) stated that he did not see any of the officers strike § 87(2)(b). In his telephone statement, however, § 87(2)(b) alleged that PO Guerra struck § 87(2)(b) in the back with a flashlight after § 87(2)(b) was in handcuffs. PO Guerra and the uniformed officer pulled § 87(2)(b) to his feet and placed him inside a marked patrol car.

§ 87(2)(b) attempted to approach, but PO Robert Rivera (name and shield number observed on nameplate) told him to stay back. The officers took § 87(2)(b) and § 87(2)(b) to a car wash up § 87(2)(b) from the incident location. § 87(2)(b) followed the officers with § 87(2)(b) and his mother, § 87(2)(b). § 87(2)(b) did not get out of the car and did not see clearly what was happening, although he did see that there was some kind of shaking motion from the ambulance.

§ 87(2)(b) *Witness*

On November 13, 2007, § 87(2)(b) provided a telephone statement (encl. 11a). On November 29, 2007, § 87(2)(b) was interviewed at § 87(2)(b) where she has lived for 17 years (encl. 11b-d). § 87(2)(b) a § 87(2)(b)-old black female, is 5'2" tall and weighs 210 pounds. § 87(2)(b) is a § 87(2)(b).

At the time of the incident, "numerous people" called § 87(2)(b) to inform her that her nephew, § 87(2)(b), was being arrested. § 87(2)(b) could not remember how many people called her, nor could she remember specifically who called her. § 87(2)(b) rushed to the corner of § 87(2)(b) and § 87(2)(b) along with her § 87(2)(b)-old son, § 87(2)(b). When she arrived, § 87(2)(b) was already inside a marked patrol car with uniformed officers § 87(2)(b) was unable to describe these officers). A large crowd that appeared to include "the whole neighborhood" was present. § 87(2)(b)'s son, § 87(2)(b), was among the members of the crowd.

§ 87(2)(b) asked an Asian male plainclothes officer whom she had previously seen around her home, identified through investigation as PO Guerra, about what was happening, and he informed her that § 87(2)(b) was being arrested and taken to the 114th Precinct stationhouse. § 87(2)(b), § 87(2)(b), and § 87(2)(b) got into the vehicle of § 87(2)(b)'s niece, § 87(2)(b) and they waited to leave until the officers left with § 87(2)(b). § 87(2)(b) and § 87(2)(b) followed the officers as they left. The officers, who were in the two marked cars in which § 87(2)(b) and § 87(2)(b) were being transported as well as the aforementioned unmarked cars, stopped to meet an ambulance near a car wash in

the vicinity of § 87(2)(b) and § 87(2)(b) and § 87(2)(b) stopped, as well. § 87(2)(b) returned home at this point.

The officers did not at any point place § 87(2)(b) inside the ambulance, but EMTs treated him for the effects of the pepper spray outside the ambulance. The officers placed § 87(2)(b) inside the ambulance. A white male plainclothes officer (5'7" to 5'8" tall, muscular, unknown hair color) stood outside the ambulance, while the PO Guerra and a second white male plainclothes officer (also 5'7" to 5'8" tall and muscular) entered the ambulance with § 87(2)(b). When the officers transported § 87(2)(b) from the second location to the 114th Precinct stationhouse, § 87(2)(b) followed them.

§ 87(2)(b) Witness

§ 87(2)(b) who lives on the § 87(2)(b) floor of § 87(2)(b) called 911 to report fireworks on the night of the incident. On January 10, 2008, § 87(2)(b) provided a telephone statement (encl. 14).

§ 87(2)(b) stated that, on the night of the incident, she heard fireworks going off in the courtyard near the building in which she lives. The fireworks went off throughout the night, and § 87(2)(b) saw from her window that a group of "young kids" was responsible. § 87(2)(b) also heard the people responsible laughing after setting off the fireworks. Finally, one particularly loud explosion awoke § 87(2)(b)'s son, who is autistic. § 87(2)(b) decided to call 911 at this point. Within seconds, officers arrived, which made her think that someone else must have already reported the fireworks. The windows of § 87(2)(b)'s apartment face another building, but none of the windows face the corner of § 87(2)(b) and § 87(2)(b). Thus, while § 87(2)(b) saw that the officers were arresting someone, she did not see anything that happened after this. § 87(2)(b) could not say how many people were arrested and did not hear any commotion or "ruckus" after the officers arrived. § 87(2)(b) further stated that she was simply glad to know that the officers had responded, and directed her attention away from the windows once she saw that they had.

Attempts to Contact and Identify Additional Civilian Witnesses

With the exception of § 87(2)(b), § 87(2)(b) was unable to identify witnesses of the incident by their full names, nor was he able to provide contact information. On November 29, 2007, the undersigned investigator traveled to the incident location. The investigator observed that § 87(2)(b) between § 87(2)(b) and § 87(2)(b) separates the Queensbridge Houses from a largely industrial area to the east. There were no businesses with a view of the location and no civilians standing in the area.

Police Officer Statements

Police Officer Wilson Alba (Housing Bureau Bronx/Queens IRT), Subject Officer

PO Alba, a § 87(2)(b)-old Hispanic male with black hair and brown eyes, is 5'8" tall and weighs 170 pounds. PO Alba worked from 6:00 p.m. on August 30, 2007, until 6:15 p.m. on August 31, 2007. PO Alba worked in uniform with PO Gheorghiu on foot post 14, located in the Queensbridge Houses. PO Alba and PO Gheorghiu were not using a motor vehicle at the time of this incident.

PO Alba made several **memo book entries** related to this incident (encl. 18a-d). At 12:05 a.m., § 87(2)(b) was stopped in front of § 87(2)(b). At 12:12 a.m., one arrest was made. The defendant kicked out the window of patrol car number 2902 and was pepper-sprayed. At § 87(2)(b), § 87(2)(b) was taken to the hospital by PO Gheorghiu, PO Lewis, and PO Torrisi. At § 87(2)(b), § 87(2)(b) returned from the hospital. At 7:00 a.m., § 87(2)(b) was taken to Queens Central Booking.

PO Alba completed the **complaint report, arrest report, and criminal court deposition** regarding § 87(2)(b)'s arrest (encl. 18e-j). According to these documents, § 87(2)(b) was holding fireworks and threw them behind a bench. He then resisted arrest by kicking, biting, and "headbutting" the officers. § 87(2)(b) screamed and yelled obscenities, as well, causing a crowd to gather. § 87(2)(b) then kicked the window of a patrol car, causing it to shatter. Glass from this window struck PO Gheorghiu in the face. § 87(2)(b) was charged § 87(2)(b), § 87(2)(a) 160.50.

On March 28, 2008, PO Alba was **interviewed at the CCRB** (encl. 18k-m). Throughout the night of the incident, fireworks were being set in the Queensbridge Houses and residents hearing the fireworks were reporting that shots had been fired. PO Alba and PO Gheorghiu investigated the reports, and the sound and smell of fireworks led them to the courtyard in front of § 87(2)(b). There were two groups of people in the courtyard. PO Alba and PO Gheorghiu initially approached a group of people to PO Alba's right, but did not stop, question, or frisk any members of this group. PO Alba turned and saw § 87(2)(b) a member of the second group, throw a round, red container to the ground. There were four to five people with § 87(2)(b) at this time. Additional civilians were playing basketball nearby. PO Alba, who was approximately fifteen feet away from § 87(2)(b) when he saw the container, approached and grabbed him to handcuff him. § 87(2)(b) resisted by pulling away. PO Gheorghiu recovered the red object from the ground and said, "This is fireworks." PO Alba and PO Gheorghiu continued attempting to handcuff § 87(2)(b) but § 87(2)(b) tried to walk away. PO Alba said to § 87(2)(b) "You might get a summons. Just relax and see what happens." PO Alba and PO Gheorghiu were able to handcuff § 87(2)(b) at this point.

§ 87(2)(b) began to scream that the fireworks were not his. § 87(2)(b) also cursed at the officers and his friends began to approach from the nearby basketball courts. At this point, there were 15 to 20 civilians present. PO Gheorghiu walked away for approximately 30 seconds to verify the location and report the arrest over the radio. Although PO Gheorghiu stated that the arrest § 87(2)(b) this was misreported as an arrest for "firearms" over the radio and numerous officers responded.

While PO Gheorghiu was away, § 87(2)(b) began to kick, duck his head down, and bite. § 87(2)(b) succeeded in kicking PO Alba in the leg area. PO Alba held onto § 87(2)(b)'s left bicep and moved his arms to avoid being bitten. Three to four plainclothes officers, identified through investigation as Sergeant Michael Loria and POs Edward French, Alfredo Guerra, and Raymond Hill, and approached to assist PO Alba. PO Alba did not see these officers get out of a vehicle and thus could not say if they arrived in one vehicle or more than one vehicle. Two six-foot-tall white or Hispanic male plainclothes officers grabbed § 87(2)(b) by the arms and led him to a marked patrol car. § 87(2)(a) 160.50

PO Alba could not remember if any of the officers was a supervisor.

§ 87(2)(b) continued to kick and duck his head in the same manner. § 87(2)(b) also dropped his weight, apparently in an effort to avoid being taken to the patrol car. PO Alba walked two to three feet behind § 87(2)(b) and the two plainclothes officers as they went toward the patrol car. No other officers had a physical role in this process. PO Alba did not see anything happen during the walk toward the patrol car indicating that § 87(2)(b) had been injured. § 87(2)(b) did not say anything about having been injured. § 87(2)(b) kicked the patrol car as the officers attempted to place him inside. The officers grabbed § 87(2)(b)'s legs to get him into the vehicle. PO Alba was directly behind § 87(2)(b) at this time.

Directly behind the patrol car, PO Alba spoke with Sgt. May about what had happened. A crowd of ten to twenty people had gathered to watch what was happening. PO Alba saw members of the crowd attempt to approach, but they complied with orders to stay back. PO Alba did not personally engage in crowd control. Within ten seconds of entering the car, § 87(2)(b) kicked the window one to two times. PO Gheorghiu was standing near the door at this time. § 87(2)(b)'s kicks caused the window to shatter, sending a glass fragment into PO Gheorghiu's eye. § 87(2)(b) proceeded to kick at the other window, so PO Alba pepper-sprayed him from the passenger's side. PO Alba could not remember if § 87(2)(b) was saying anything as he kicked at the window and could not remember how many times he pepper-sprayed § 87(2)(b). Another officer or officers in uniform pepper-sprayed § 87(2)(b) from the other side of the vehicle, but PO Alba was not able to identify the officer or officers. § 87(2)(b) was more compliant after being pepper-sprayed.

PO Alba and other officers moved § 87(2)(b) to a second patrol car. § 87(2)(b) did not resist at all at this time. PO Alba could not remember where the second patrol car was in relation to the first car. § 87(2)(b) was taken to a second location, four to five blocks away from the first location, so that he

could be treated by EMTs away from the safety risk of the crowd. § 87(2)(b) was treated for the effects of pepper spray but had no other visible injuries. PO Alba was not able to identify any officers who went to the second location. PO Torrisi and PO Lewis went with § 87(2)(b) to the hospital while PO Alba went to the stationhouse to process the arrest.

A juvenile, identified through investigation as § 87(2)(b) was arrested, but PO Alba did not see this happen. PO Alba did not have any interaction with § 87(2)(b) when he returned from the hospital. PO Alba did not hear § 87(2)(b) complain of an injury upon his return. PO Alba did see § 87(2)(b) and stated that he saw no visible evidence of an injury. The investigator presented the command log entry, which indicates that § 87(2)(b) was wearing a cast on his right wrist when he returned from the hospital. PO Alba speculated that this injury resulted from § 87(2)(b)'s resistance as he was being led to the patrol car. PO Alba did not hear § 87(2)(b) complain about officers' conduct at the hospital. PO Alba did not use or remove an asp or nightstick during the incident and did not see another officer do so. PO Alba denied that five officers pepper-sprayed § 87(2)(b). No officer struck § 87(2)(b) or any other member of the crowd during the incident.

Police Officer Ionut Gheorghiu (Housing Bureau Bronx/Queens IRT), Subject Officer

PO Gheorghiu, a § 87(2)(b)-old white male with black hair and hazel eyes, is 5'10" tall and weighs 175 pounds. PO Gheorghiu worked from 6:00 p.m. on August 30, 2007, until 2:35 a.m. on August 31, 2007. PO Gheorghiu was in uniform and worked with PO Alba on foot.

PO Gheorghiu made several **memo book entries** related to this incident (encl. 19a-c). At 12:15 a.m., one male was arrested by PO Alba. At § 87(2)(b), PO Gheorghiu arrived at § 87(2)(b). At 7:15 a.m., PO Gheorghiu transported one male to Queens Central Booking.

On January 28, 2008, PO Gheorghiu was **interviewed at the CCRB** (encl. 19d-e). § 87(2)(g)

PO Gheorghiu stated that he and PO Alba walked approximately six feet behind the plainclothes officers. § 87(2)(b) was not physically resisting and there was no difficulty in getting him to walk toward the car. § 87(2)(b) was, however, cursing as he was led to the car. There was no difficulty in getting § 87(2)(b) into the patrol car. A crowd of fifty to sixty people began to form along the street. Once § 87(2)(b) was inside the car, he laid down in the backseat and began to kick the windows. PO Gheorghiu was standing next to the rear passenger's-side door and was preparing to open the door when § 87(2)(b)'s kicks caused the window to shatter, sending a piece of glass into PO Gheorghiu's right eye. Other officers took PO Gheorghiu to the side because of his injury.

Twenty to thirty officers, primarily in uniform, had arrived on the scene and were engaging in crowd control. PO Gheorghiu did not see if there was any difficulty in controlling specific members of the crowd and did not witness any other arrests at the scene. PO Gheorghiu did not recognize a photograph of § 87(2)(b). PO Gheorghiu waited at the side with other officers for approximately five minutes before an ambulance arrived. EMTs checked PO Gheorghiu's eye.

PO Gheorghiu was taken to § 87(2)(b) (the investigation later determined that he went to § 87(2)(b)). There, he saw § 87(2)(b) handcuffed to the bed. Officers from PO Gheorghiu's command were with § 87(2)(b) but PO Gheorghiu could not remember their names. PO Gheorghiu's eye was checked in the room next door to § 87(2)(b)'s room, and PO Gheorghiu could hear § 87(2)(b) using "a lot of profanities, screaming, this and that." PO Gheorghiu saw one of the doctors tell § 87(2)(b) that he would be given a shot if he did not calm down. PO Gheorghiu did not hear the officers respond to § 87(2)(b)'s statements and could not see what was happening. PO Gheorghiu did not hear any officer say, "If you wanna keep running your mouth, you're gonna feel the pain," and did not hear any comment related to § 87(2)(b)'s handcuffs being tightened.

PO Gheorghiu did not initially remember § 87(2)(b) having suffered any injuries aside from the effects of the pepper spray. When the investigator presented the command log, which indicates that § 87(2)(b)'s right wrist was in a cast when he returned from the hospital, PO Gheorghiu remembered

seeing that his arm was in a cast. PO Gheorghiu was not aware of what injury § 87(2)(b) suffered or how he obtained this injury. PO Gheorghiu did not see any kind of physical interaction between § 87(2)(b) and the officers that could have resulted in an injury requiring a cast.

Sergeant Joseph May (Housing Bureau Bronx/Queens IRT), Witness Officer

Sgt. May, a § 87(2)(b)-old white male with blond hair and blue eyes, is 6'7" tall and weighs 210 pounds. Sgt. May worked from 5:50 p.m. on August 30, 2007, until 4:47 a.m. on August 31, 2007. Sgt. May was the patrol supervisor and worked without a partner in a marked patrol car.

Sgt. May made several **memo book entries** related to this incident (encl. 15a-c). At 11:59 p.m., additional units were requested at the location. At 12:10 a.m., Sgt. May arrived. At 12:12 a.m., one person was arrested by PO Alba and one person was arrested by PO Lau. At § 87(2)(b) Sgt. May went to § 87(2)(b). At 1:30 a.m., Sgt. May resumed patrol.

On January 24, 2008, Sgt. May was **interviewed at the CCRB** (encl. 15d-e). Sgt. May stated that, when he arrived at the incident location, he observed a marked patrol car with a broken window. Sgt. May could not remember on what street the patrol car was parked. Shards of glass were on the ground near the car. One individual, identified through investigation as § 87(2)(b) was in the backseat of the car. Sgt. May had not had any previous contact with § 87(2)(b). § 87(2)(b) was moving his body around, apparently in an attempt to lay himself down on the seat. An officer was standing next to § 87(2)(b)'s seat, but Sgt. May could not remember which officer this was. § 87(2)(b) had already been pepper-sprayed when Sgt. May arrived but had no other visible injuries and was not complaining of any other injuries. A crowd of thirty to forty people had gathered and approximately fifteen officers were present. The officers were from a mix of different commands. Among the officers were PO Lau, PO Alba, and an unidentified sergeant from PSA 9. The members of the crowd were yelling, screaming, and threatening officers. Sgt. May could not remember any specific threatening statements made by members of the crowd, but did remember that they wanted the officers to release § 87(2)(b). A second male, identified through investigation as § 87(2)(b) was in handcuffs in another patrol car when Sgt. May arrived. Sgt. May denied that § 87(2)(b) had been pepper-sprayed.

Sgt. May spoke with PO Lau and PO Alba to determine what had happened. An ambulance was already on the scene, but Sgt. May directed the officers to take § 87(2)(b) approximately two blocks away from the crowd so that he could be given medical attention in a safer location. Sgt. May could not remember who drove § 87(2)(b) the two blocks. § 87(2)(b) received treatment for the effects of the pepper spray. § 87(2)(b) was then taken to either § 87(2)(b) or § 87(2)(b). PO Lau transported § 87(2)(b) directly to the 114th Precinct stationhouse, as he did not need medical attention.

Sgt. May went to § 87(2)(b) at approximately § 87(2)(b) and saw § 87(2)(b) who was waiting to be seen by a doctor. § 87(2)(b) was yelling and screaming, but Sgt. May could not remember any specific statements he made. § 87(2)(b) still was not complaining of any injuries aside from the effects of the pepper spray. At least two officers from Sgt. May's command were with § 87(2)(b), but Sgt. May could not remember which officers. The officers did not respond to § 87(2)(b)'s screaming and yelling and had no physical contact with him.

Sgt. May could not remember if he became aware that § 87(2)(b) had suffered any injuries at any point. The investigator presented the 114th Precinct Command Log, which indicates that § 87(2)(b)'s right wrist was in a cast when he arrived at the stationhouse at 6:46 a.m. Sgt. May did not remember learning anything about this injury.

Police Officer Thomas Dunne (Housing Bureau Bronx/Queens IRT), Witness Officer

PO Dunne, a § 87(2)(b)-old white male, is 5'11" tall and weighs 200 pounds. PO Dunne worked from 6:00 p.m. on August 30, 2007, until 2:35 a.m. on August 31, 2007. PO Dunne was in uniform and drove a marked vehicle with Sgt. Harper.

PO Dunne made several **memo book entries** related to this incident (encl. 20a-c). At 11:55 p.m., there was a request for additional units at § 87(2)(b). A “combative perp” kicked out the window of patrol vehicle number 9202. One male juvenile was arrested and taken to the 114th Precinct stationhouse.

On January 28, 2008, PO Dunne was **interviewed at the CCRB** (encl. 20d-e). § 87(2)(g) PO Dunne responded to the call for additional units and observed § 87(2)(b) being placed in a marked patrol car. PO Dunne was standing at the rear of the vehicle when § 87(2)(b) kicked the window.

Unidentified plainclothes officers pepper-sprayed § 87(2)(b). PO Dunne could not remember how many officers pepper-sprayed § 87(2)(b) nor could he remember if more than one officer pepper-sprayed him. PO Dunne had no role in removing § 87(2)(b) from the vehicle and transporting him to the second location. PO Dunne became aware that a male juvenile, identified through investigation as § 87(2)(b) was arrested because § 87(2)(b) was transported to the 114th Precinct stationhouse in an IRT vehicle driven by PO Lau. Sgt. Harper was notified of this, and thus PO Dunne was also notified. PO Dunne did not see § 87(2)(b) being arrested, but did see him inside PO Lau’s vehicle. At this time, § 87(2)(b) had no visible injuries.

Police Officer Christopher Torrisi (Housing Bureau Bronx/Queens IRT), Witness Officer
PO Torrisi, a § 87(2)(b)-old white male with black hair and brown eyes, is 5’10” tall and weighs 215 pounds. PO Torrisi worked from 6:00 p.m. on August 30, 2007, until 7:00 a.m. on August 31, 2007. PO Torrisi worked in uniform with PO Dunne. The officers were in a marked motor vehicle.

PO Torrisi made several **memo book entries** related to this incident (encl. 16a-b). At 12:05 a.m., officers requested assistance at § 87(2)(b) and § 87(2)(b). At 12:12 a.m., one person was arrested by PO Alba. At § 87(2)(b), PO Torrisi arrived at § 87(2)(b).

On April 10, 2008, PO Torrisi was **interviewed at the CCRB** (encl. 16d-e). During his tour on the night of the incident, PO Torrisi received four to five reports of shots fired in the area around the Queensbridge Houses. When he received the request for assistance, PO Torrisi was approximately ten blocks away from the incident location. PO Torrisi § 87(2)(g) § 87(2)(b) stated that the plainclothes officers did not arrive until after PO Alba and PO Gheorghiu had already led § 87(2)(b) onto the sidewalk along § 87(2)(b).

PO Torrisi saw a second individual, identified through investigation as § 87(2)(b) being handcuffed by an unknown number of plainclothes officers from an unknown command. This was happening while § 87(2)(b) was being placed inside the patrol car. PO Torrisi did not recognize a photograph of § 87(2)(b). When asked if there was any difficulty in handcuffing § 87(2)(b) PO Torrisi said, “No. I don’t know. I don’t know. I don’t recall.” However, when asked if § 87(2)(b) was taken to the ground, PO Torrisi said, “Oh, yeah. Definitely.” PO Torrisi did not see what led up to this and did not see any officer strike or pepper-spray § 87(2)(b). PO Torrisi could not remember what first drew his attention to the fact that § 87(2)(b) was being handcuffed. PO Torrisi did not see any officer pepper-spray § 87(2)(b) and did not see what happened after he was in handcuffs.

Unlike the other officers, PO Torrisi stated that § 87(2)(b) kicked out the window of the patrol car after § 87(2)(b) was handcuffed. PO Torrisi was not involved in pepper-spraying § 87(2)(b). After § 87(2)(b) was treated for the effects of pepper spray at the second location, PO Torrisi went with him to § 87(2)(b) (the investigation later determined that they went to § 87(2)(b)). Another officer accompanied PO Torrisi, but he could not remember which officer this was. PO Torrisi arrived at the hospital at § 87(2)(b) and remained there until § 87(2)(b). PO Torrisi stayed with § 87(2)(b) during this time. § 87(2)(b) continued to be “aggressive” and “uncooperative” with hospital staff throughout the night. PO Torrisi could not remember if § 87(2)(b) asked officers to loosen his handcuffs during the night. During the night, § 87(2)(b) complained of an injury to his wrist and X-rays were done. § 87(2)(b) did not say anything about how he received the injury. § 87(2)(b) left the hospital with a soft cast on his wrist, but PO Torrisi did not know what injury the cast was for. § 87(2)(b) was not alleging that the injury to his wrist resulted from something that

happened while he was in police custody. PO Torrissi did not hold a pillow against § 87(2)(b)'s face and did not see another officer do so. PO Torrissi did not tighten § 87(2)(b)'s handcuffs and did not see another officer do so.

Police Officer Robert Rivera (Housing Bureau Bronx/Queens IRT), Witness Officer

PO Rivera, a § 87(2)(b)-old Hispanic male with black hair and brown eyes, is 5'7" tall and weighs 182 pounds. PO Rivera worked from 6:00 p.m. on August 30, 2007, until 2:35 a.m. on August 31, 2007. PO Rivera was in uniform and worked with PO Bonet. The officers were assigned to Operation Impact and patrolled the area around the Ravenswood Houses using a marked patrol car.

PO Rivera made one **memo book entry** related to this incident (encl. 22a-b). At 12:10 a.m., PO Rivera responded to a request for additional units at the Queensbridge Houses and engaged in crowd control.

On January 22, 2008, PO Rivera was **interviewed at the CCRB** (encl. 22c-d). When PO Rivera arrived at the location, there was a crowd of over twenty people at the location, mostly on the sidewalk. Members of the crowd were yelling, screaming, and cursing. PO Rivera later learned from other officers that two males, identified through investigation as § 87(2)(b) and § 87(2)(b) were arrested at the location. However, PO Rivera did not witness these arrests being made. PO Rivera engaged in crowd control by asking people to step back and get out of the street. PO Rivera did not remember interacting with any particular members of the crowd and did not remember any specific individuals presenting a problem. PO Rivera did not see any physical interaction between any officer and any of the civilians.

Police Officer Michael Lau (Housing Bureau Bronx/Queens IRT), Witness Officer

PO Lau, a § 87(2)(b)-old Asian male with black hair and brown eyes, is 5'8" tall and weighs 190 pounds. PO Lau worked from 6:00 p.m. on August 30, 2007, until 2:35 a.m. on August 31, 2007. PO Lau was in uniform and patrolled IRT Post 6 (the Astoria Houses) with PO Leon Lewis. The officers used a marked patrol car and PO Lau was driving.

PO Lau made several **memo book entries** related to this incident (encl. 21a-c). At 12:05 a.m., an additional unit was requested at § 87(2)(b). At 1:00 a.m., PO Lau prepared a juvenile report.

On February 5, 2008, PO Lau was **interviewed at the CCRB** (encl. 21d-e). At the time of the incident, PO Lau was coming from a meal break. It took PO Lau five to ten minutes to respond to the radio report. When PO Lau arrived on the scene, 50 to 100 officers, both uniformed and plainclothes, were present. More civilians than officers were present at the location. One juvenile, identified through investigation as § 87(2)(b) had been handcuffed when PO Lau arrived. § 87(2)(b) was being walked toward the street from the sidewalk by two plainclothes male officers whom PO Lau was unable to identify. PO Lau had no physical role in restraining § 87(2)(b). § 87(2)(b) was transported in PO Lau's vehicle because it was the only available vehicle. PO Lau asked the officers what had happened, and they informed him that § 87(2)(b) had engaged in disorderly conduct by attempting to get past them.

§ 87(2)(b) was screaming, yelling, and cursing when PO Lau arrived, but PO Lau could not remember any specific statements he made. § 87(2)(b) was not physically resisting and there was no difficulty in placing him in the patrol car. PO Lewis was not present at this time and PO Lau did not know where he was. § 87(2)(b) had no visible injuries. PO Lau stated that he is not aware of whether § 87(2)(b) had been pepper-sprayed. § 87(2)(b) was not complaining of any injuries resulting from pepper spray. PO Lau was later informed that a second person, identified through investigation as § 87(2)(b) was arrested at the location, but he did not see § 87(2)(b).

PO Lau transported § 87(2)(b) directly to the 114th Precinct stationhouse and did not go anywhere before going to the stationhouse. PO Lau completed a handwritten juvenile report for § 87(2)(b) at the stationhouse and dropped it off at the desk. PO Lau learned after the incident that a patrol car's window was broken during the incident, but could not remember whether he saw any evidence of this while he was at the incident location.

Police Officer Leon Lewis (Housing Bureau Bronx/Queens IRT), Witness Officer

PO Lewis, a § 87(2)(b)-old black male with black hair and brown eyes, is six feet tall and weighs 235 pounds. PO Lewis worked from 6:00 p.m. on August 30, 2007, until 2:35 a.m. on August 31, 2007. PO Lewis patrolled the Astoria Houses on foot with PO Lau. PO Lewis was in uniform.

PO Lewis made several **memo book entries** related to this incident (encl. 26a-b). At 12:05 a.m., officers requested assistance at § 87(2)(b). At § 87(2)(b) PO Lewis arrived at § 87(2)(b). At 1:30 a.m., Deputy Inspector Clary inspected PO Lewis's memo book. At § 87(2)(b) PO Lewis left § 87(2)(b).

On April 7, 2008, PO Lewis was **interviewed at the CCRB** (encl. 26c-d). PO Lewis stood on the sidewalk to control the crowd, but did not actually issue verbal instructions to members of the crowd and did not have any physical interaction with any members of the crowd. PO Lewis did not see what PO Lau did during the incident. There was no particular difficulty in controlling any specific members of the crowd. The patrol car containing § 87(2)(b) and possibly other handcuffed individuals was five feet behind PO Lewis. No members of the crowd were handcuffed while PO Lewis was present.

When § 87(2)(b) was moved to the second location, an unidentified sergeant instructed PO Lewis to accompany § 87(2)(b) to § 87(2)(b). § 87(2)(b) needed treatment for the effects of pepper spray and was complaining about the effects of pepper spray but did not complain of other injuries. Another officer, identified through investigation as PO Torrissi, went with PO Lewis to the hospital via ambulance.

At the hospital, PO Lewis and PO Torrissi stayed with § 87(2)(b) along with one other officer. § 87(2)(b) continued to complain about his eyes. PO Lewis could not say if § 87(2)(b) complained of or received treatment for other injuries at the hospital. PO Lewis did not hold a pillow against § 87(2)(b)'s face and did not see another officer do this. PO Lewis did not tighten § 87(2)(b)'s handcuffs and did not see another officer do this. No officer said, "You wanna keep running your mouth? Keep acting stupid? You're gonna feel the pain." PO Lewis left the hospital by himself in a marked car. A uniformed male officer from the 114th Precinct came to the hospital to relieve PO Lewis. Just one officer stayed with § 87(2)(b). PO Lewis did not witness any struggle between § 87(2)(b) and other officers. After the incident, PO Lewis became aware that a patrol car's window was broken. PO Lewis did not see this. PO Lewis was not aware of what PO Lau was doing as he (PO Lewis) left the scene. PO Lewis did not use or remove a nightstick or asp and did not see another officer do so.

Police Officers Raymond Hill and Edward French (Police Service Area 9), Witness Officers

PO Hill, a § 87(2)(b)-old white male with black hair and blue eyes, is 5'6" tall and weighs 180 pounds. PO French, a § 87(2)(b)-old white male with blonde hair and blue eyes, is 6' tall and weighs 200 pounds. PO Hill and PO French worked together in plainclothes as members of the anti-crime team from 8:30 p.m. on August 30, 2007, until 5:05 a.m. on August 31, 2007. The two officers used a black unmarked Crown Victoria.

PO Hill made **memo book entries** related to this incident (encl. 23a-c). At 12:25 a.m., officers from the IRT command called for assistance in front of § 87(2)(b). At 12:30 a.m., PO Hill arrived at the location.

PO French made one memo book entry related to this incident (encl. 25a-c). At 12:25 a.m., PO French responded to a request for assistance at § 87(2)(b).

On February 28, 2008, PO Hill was **interviewed at the CCRB** (encl. 23d-e), and on March 25, 2008, PO French was interviewed at the CCRB (encl. 25d-e). § 87(2)(g). At the time of the incident, POs Hill and French responded to a call for assistance made by officers from the Housing Bureau IRT command, identified through investigation as PO Gheorghiu and PO Alba.

When POs Hill and French arrived, they saw uniformed IRT officers, identified through investigation as POs Ionut Gheorghiu and Wilson Alba, leading a handcuffed male, identified through investigation as

§ 87(2)(b) from the courtyard onto § 87(2)(b). PO Hill stated that § 87(2)(b) was resisting by attempting to twist his body and kicking his legs. The officers thus had to pick him up and carry him to take him to a patrol car. PO French, in contrast, asserted that there was no difficulty in leading § 87(2)(b) to the patrol car. A crowd of 50 to 150 people had gathered in the courtyard and street. Members of the crowd were yelling and screaming.

Once the officers got to the patrol car, § 87(2)(b) sat in the car on his own. POs Hill and French, who were approximately twenty feet away from the vehicle into which § 87(2)(b) had been placed, engaged in crowd control by instructing people to stay on the sidewalk. Thirty to 45 seconds after being placed inside the patrol car, § 87(2)(b) kicked out the window. Neither officer saw § 87(2)(b) being pepper-sprayed. § 87(2)(b) was transferred into a different car by two to four uniformed IRT officers, at which point POs Hill and French resumed patrol. Neither officer remembered there being any difficulty in controlling any members of the crowd, and neither officer was aware of whether any other arrests were made.

Sgt. Loria and his driver, PO Guerra, arrived after PO Hill and PO French. PO Hill recognized a photograph of § 87(2)(b). § 87(2)(b) POs Hill and French had no physical interaction with § 87(2)(b) on the day of this incident. They were not aware of whether § 87(2)(b) was injured during this incident.

Sergeant Michael Loria (Police Service Area 9), Witness Officer

Sgt. Loria, a § 87(2)(b)-old white male with brown hair and eyes, is 6'4" tall and weighs 280 pounds. Sgt. Loria worked from 7:55 p.m. on August 30, 2007, until 5:39 a.m. on August 31, 2007. Sgt. Loria was the anti-crime supervisor and worked with PO Guerra in plainclothes in an unmarked Impala, § 87(2)(e).

Sgt. Loria made several **memo book entries** related to this incident (encl. 24a-c). At 12:25 a.m., Sgt. Loria received a request for assistance made by IRT officers at § 87(2)(b). At 12:27 a.m., Sgt. Loria arrived at the location. At 1:15 a.m., two people were arrested by IRT officers and Sgt. Loria resumed patrol.

On March 25, 2008, Sgt. Loria was **interviewed at the CCRB** (encl. 24d-e). When Sgt. Loria responded to the request for assistance, "a bunch" of uniformed IRT officers and the IRT supervisor, Sgt. Joseph May, were present. PO Hill and PO French were also at the scene. § 87(2)(g). Sgt. Loria denied that members of his team had any physical interaction with § 87(2)(b). Sgt. Loria had his team engage in crowd control. Specifically, the anti-crime officers instructed members of the crowd to stay on the sidewalk. Sgt. Loria did not personally have to do this and stated, "My guys were doing pretty good." There was no particular difficulty with any specific members of the crowd. Sgt. Loria went to the second location and spoke with Deputy Inspector Clary, who was on patrol that night. Sgt. Loria informed DI Clary of what had happened. DI Clary signed Sgt. Loria's memo book and instructed him to resume patrol.

Police Officer Alfredo Guerra (Police Service Area 9; since reassigned to Manhattan Court Section), Witness Officer

PO Guerra, a § 87(2)(b)-old Hispanic male with black hair and brown eyes, is 5'7" tall and weighs 220 pounds. PO Guerra worked from 8:30 p.m. on August 30, 2007, until 5:05 a.m. on August 31, 2007. PO Guerra completed an anti-crime assignment and worked with Sgt. Loria in a black unmarked vehicle. PO Guerra stated that the vehicle was not an Impala, but rather, "the other kind."

PO Guerra made a **memo book entry** related to this incident (encl. 17a-b). At 12:25 a.m., officers requested assistance in front of § 87(2)(b).

On March 10, 2008, PO Guerra was **interviewed at the CCRB** (encl. 17c-d). § 87(2)(g). PO Guerra did not recognize § 87(2)(b)'s arrest photograph, § 87(2)(b).

PO Guerra stated that he could not see what was happening with § 87(2)(b) because he was busy engaging in crowd control. PO Guerra heard an officer or officers tell an individual, identified through investigation as § 87(2)(b) to “stay back.” PO Guerra had not seen § 87(2)(b) before this point. PO Guerra did not hear any discussion of a camera and did not see § 87(2)(b) carrying a camera. § 87(2)(b) was approximately ten feet away from PO Guerra. PO Guerra also heard the officers instruct § 87(2)(b) to put his hands behind his back. § 87(2)(b) moved his body to avoid being handcuffed and refused to place his hands in the proper position. PO Guerra was unable to describe the process by which § 87(2)(b) was arrested in detail because he was concentrating on controlling the crowd. PO Guerra did not see if § 87(2)(b) was taken to the ground, nor did he see if an officer pepper-sprayed § 87(2)(b). PO Guerra did not at any point become aware that § 87(2)(b) had been pepper-sprayed. PO Guerra did not see any officer strike § 87(2)(b).

Because the situation with the crowd was dangerous, the officers moved the vehicle with the broken window, along with § 87(2)(b) down the block. There was an ambulance at the scene, but PO Guerra did not see if § 87(2)(b) obtained medical treatment. PO Guerra stated that other officers moved down the block, but he could not remember who they were. PO Guerra, Sgt. Loria, and their team moved on, leaving only uniformed officers at the location.

Officers Not Interviewed

§ 87(2)(g)

Medical Records

Because § 87(2)(b) failed to provide signed medical release forms, it was not possible to obtain his medical records. However, the ambulance call report related to § 87(2)(b)'s treatment makes no mention of any injuries aside from the effects of the pepper spray (encl. 27b-c). The ACR also notes that § 87(2)(b) was “violent and spitting and cursing.” § 87(2)(b) was “spitting water on crew” while they attempted to flush his eyes. It was not possible for the crew to administer oxygen to § 87(2)(b) due to his violent behavior.

§ 87(2)(b) and his mother, § 87(2)(b), stated that § 87(2)(b) obtained medical treatment related to this incident at § 87(2)(b) several days after the incident occurred. However, the hospital was unable to find any record of a visit by § 87(2)(b) in the requested date range (encl. 28a-d). As noted above, subsequent attempts to contact § 87(2)(b) and his family have been unsuccessful.

Police Department Documents

Line-of-Duty Control Log

The line-of-duty control log (encl. 29) confirms that PO Gheorghiu was taken to § 87(2)(b) for treatment of a foreign object in his right eye. No line-of-duty report was completed.

Arrest Photograph

§ 87(2)(b)'s arrest photograph shows no visible injuries (encl. 30). His wrist is not visible in the photographs.

Unusual Occurrence Report

The unusual occurrence report prepared regarding this incident (encl. 31a-b) confirms that § 87(2)(b) kicked the back passenger's-side window, causing it to shatter and sending a shard of glass into PO Gheorghiu's right eye. The report notes that § 87(2)(b) was transported to § 87(2)(b) for treatment of the effects of pepper spray. PO Gheorghiu was also transported to § 87(2)(b) for his eye injury. There is no mention of any other injury to § 87(2)(b).

Sprint Report and Communications CD

§ 87(2)(b) reported the fireworks at 12:08 a.m. (encl. 32a-j). At 12:23 a.m., § 87(2)(b) called to report that officers were “beating on one male.” IAB requested that the patrol supervisor respond to the location. At 1:18 a.m., Housing Post 14 reported an arrest. At § 87(2)(b) a housing anti-crime vehicle, § 87(2)(b) reported that one prisoner was being transported to Astoria Boulevard and an officer was being transported to § 87(2)(b). In addition to the housing footposts and anti-crime officers, a female officer in vehicle 9254 reported responding. The communications CD clarifies that the housing anti-crime sergeant, Sgt. Loria, reported arriving on the scene less than one minute after PO Gheorghiu requested non-emergency assistance.

Property Vouchers

PO Alba prepared property vouchers for the fireworks, \$476 confiscated from § 87(2)(b) and Polaroid photographs of the damage to the patrol car (encl. 33a-d).

Command Log

The command log (encl. 34a-b) indicates that § 87(2)(b) arrived at the 114th Precinct stationhouse at 1:20 a.m. His physical/mental condition was described as “apparently normal.” § 87(2)(b) was released to his “mother,” § 87(2)(b) and a juvenile report was prepared. § 87(2)(b) was charged § 87(2)(a) Fam. Ct. Act § 381.3 § 87(2)(b) arrived at the stationhouse at 6:46 a.m. It is noted that his right wrist was in a cast.

Roll Calls

The roll calls (encl. 35a-e, 36a-c) confirm the officers’ statements regarding their respective assignments and tours.

Disposition of Criminal Charges

§ 87(2)(a) Fam. Ct. Act § 381.3, [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB and Criminal Conviction History

This is the first complaint § 87(2)(b) and § 87(2)(b) have filed with the CCRB (encl. 3a-b).

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Police Officer CCRB History

PO Gheorghiu and PO Alba each have three years of tenure and neither has a previously substantiated CCRB allegation (encl. 2a-b).

Conclusions and Recommendations

Officer Identification and the Pleading of Allegations

PO Gheorghiu and PO Alba confirmed their respective roles in this incident. PO Gheorghiu was identified as the officer who allegedly stopped and frisked § 87(2)(b) based on his described role later in the

incident. Although Sgt. Loria, PO French, PO Hill, and PO Guerra denied any physical involvement with § 87(2)(b) and § 87(2)(b) both the officers and the civilians agreed that plainclothes officers were involved in both arrests, Sgt. Loria reported arriving on the scene less than one minute after PO Gheorghiu requested assistance, § 87(2)(a) 160.50

§ 87(2)(b), § 87(2)(g)

The anti-crime team was the only plainclothes PSA 9 unit operating at the time of the incident.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) was unable to describe the officer who held a pillow against his face and the officer who tightened his handcuffs at the hospital, and both officers identified as being present at the hospital denied committing either act. § 87(2)(g)

Disputed and Undisputed Facts

In this case, there is no dispute that POs Gheorghiu and Alba approached § 87(2)(b) in the courtyard of the Queensbridge Houses and arrested him § 87(2)(b). There is no question that he resisted being led to the patrol car and was pulled toward the car. All agree that he kicked the window of the car, causing it to shatter. § 87(2)(b) was subsequently arrested when he approached to take photographs of what was happening.

§ 87(2)(b), § 87(2)(g). § 87(2)(b) denied using fireworks, and alleged that it was in fact § 87(2)(b) who used the fireworks. § 87(2)(b) alleged that he was grabbed and frisked by PO Gheorghiu before the officers apprehended § 87(2)(b) but § 87(2)(b) and § 87(2)(b) did not mention this and PO Gheorghiu denied it. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) PO Lau, and PO Torrisi stated that plainclothes officers effected § 87(2)(b)'s arrest, but § 87(2)(b) and § 87(2)(b) stated that this was done by uniformed officers. However, the members of the anti-crime team denied being physically involved.

Assessment of Evidence

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Although the command log confirms that § 87(2)(b)'s right wrist was broken, the ACR indicates that § 87(2)(b) did not have or complain of this injury when he was removed from the scene.

PO Alba acknowledged pepper-spraying § 87(2)(b) and stated that he did so because, having already shattered one window, § 87(2)(b) was kicking toward a second window. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Recommended Dispositions

Allegation A: At § 87(2)(b) and § 87(2)(b) in Queens, Police Officer Ionut Gheorghiu stopped § 87(2)(b).

Allegation B: At § 87(2)(b) and § 87(2)(b) in Queens, Police Officer Ionut Gheorghiu frisked § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

Allegation C: At § 87(2)(b) and § 87(2)(b) in Queens, officers used physical force against § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

Patrol Guide Procedure 203-11 concerning the use of force states that officers may use “that amount of force necessary to overcome resistance” to effect an arrest (encl. 1a-b). § 87(2)(b), § 87(2)(g)

Allegation D: At § 87(2)(b) and § 87(2)(b) in Queens, Police Officer Wilson Alba used pepper spray against § 87(2)(b).

As noted above, PO Alba pepper-sprayed § 87(2)(b) after § 87(2)(b) had already caused one patrol car window to shatter, sending a shard of glass into PO Gheorghiu's eye, and was kicking toward a second window. Patrol Guide Procedure 212-95 concerning the use of pepper spray states that “pepper spray may be used when a member reasonably believes it is necessary to effect an arrest of a resisting suspect, for self-defense or defense of another from unlawful force, or to take a resisting emotionally disturbed person into custody” (encl. 1c). § 87(2)(g)

Allegation E: At § 87(2)(b) and § 87(2)(b) in Queens, officers used pepper spray against § 87(2)(b).

Allegation F: At § 87(2)(b) and § 87(2)(b) in Queens, an officer used physical force against § 87(2)(b).

Allegation G: At § 87(2)(b) and § 87(2)(b) in Queens, an officer used pepper spray against § 87(2)(b) § 87(2)(b).

Allegation H: At § 87(2)(b) and § 87(2)(b) in Queens, officers used physical force against § 87(2)(b) § 87(2)(b).

Allegation I: At § 87(2)(b), an officer held a pillow against § 87(2)(b)'s face.

Allegation J: At § 87(2)(b), an officer tightly handcuffed § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: